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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,459	08/27/2003	Jerome Fournier	979-032	7120

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EXAMINER

VARGOT, MATHIEU D

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/650,459

Applicant(s)

FOURNIER ET AL.

Examiner

Mathieu D. Vargot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/27/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

1. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, lines 5-6, "said discontinuously graded index (stepped index) preform" lacks antecedent basis as does "said continuously graded index preform" in claim 5, line 3. Also, the recitation in the last two lines of claim 5 of "preferably chosen..." renders the scope of the claim indefinite. These types of limitations should be put into separate dependent claims.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by PCT Publication WO 00/56777 (see Kim et al, USP 6,563,994).

PCT Publication –777, as evidenced by the equivalent US Patent 6,563,994 to Kim et al, discloses the instant preform formation system with a first area for isolating the liquid compositions (ie, inner and outer containers 1 and 2) and a second area for forming the (step index) graded preform when the inner container is withdrawn, the first and second areas clearly having at least one common portion when the inner container is withdrawn as in the instant. See column 6, lines 3-4 and 15-22 of Kim et al, which is the English language equivalent to the applied PCT –777 publication.

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3.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication WO 00/56777 (see Kim et al, USP 6,563,994).

The applied reference discloses the basic claimed apparatus as set forth in paragraph 2, supra, PCT -777 essentially failing to teach that the external enclosure is extended axially by a member with varying internal dimensions. Note that column 9, lines 22-23 of Kim et al discloses that the preform would be thermally drawn after it is manufactured. It would have been obvious to have employed a member at the end of the external enclosure to allow such drawing directly from the apparatus. While PCT -777 fails to explicitly teach that the internal enclosure(s) are longer than the external enclosure, such is submitted to have been inherent or certainly obvious. The internal enclosure(s) are pulled upwardly to make the preform, and to do so would have required, or rendered obvious, that they extend above the upper periphery of the outer enclosure to some extent so that they would be grasped. PCT -777 teaches rotational means to mix the components and a vibrational means such as an ultrasound transducer is well known in the art would have been an obvious modification dependent on the exact extent and degree of mixing desired.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication WO 00/56777 (see Kim et al, USP 6,563,994) in view of Perrin et al (col. 3, line 44 through col. 4, line 43; see also Figure 1).

PCT Publication –777 discloses a method for making a graded index preform and fiber from liquid/fluid compositions including producing the preform employing a step with substantially no flow of the compositions as set forth in claim 1 and generally discussed in paragraph 2, supra, the primary reference lacking essentially the aspect of a crosslinking starter being present in one of the compositions. Perrin et al discloses this and such would have been obvious to lock in the desired refractive index gradient. Perrin also shows an arrangement wherein the preform is made and a fiber drawn directly therefrom the device making the preform, such being obvious in the method of the primary reference which also teaches drawing the preform. Perrin et al (col. 6, lines 20-22) also teaches that the compositions would be pressurized using pumps and such would have been an obvious modification to the method of PCT –777 to ensure that the compositions fill the apparatus as needed.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on 571 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
December 7, 2005


Mathieu D. Vargot
Primary Examiner
Art Unit 1732

12/7/05